

Inventors: Steward et al.  
Serial No.: 09/942,024  
Filed: August 28, 2001  
Page 2

Group II: Claims 35 to 53, directed to methods of  
determining protease activity of a toxin.

The claims are additionally subject to Election of Species Requirements. In particular, the Office Action asserts that the substrates of Group I include (a) multiple peptide species which are portions of human SNAP-25; (b) multiple species of donor fluorophore; and (c) multiple species of acceptor. The Office Action further asserts that the methods of Group II include multiple botulinum toxin substrate species, as set forth in claims 36 and 37.

#### **Election of invention**

Applicants hereby elect without traverse the claims of Group II (claims 35 to 53), directed to methods of determining protease activity of a toxin. Applicants further elect the BoNT/A substrate species, as set forth in claim 36. The method claims which read upon the elected species are claim 35 (in part), claim 36, and claims 38 to 53.

Applicants respectfully remind the Examiner that there is a linking claim (claim 35) linking the species of botulinum toxin substrate. Thus, should this linking claim be found allowable, any subject matter directed to the non-elected BoNT/E species which was previously withdrawn from consideration must be rejoined and examined for patentability (MPEP 809).

Inventors: Steward et al.  
Serial No.: 09/942,024  
Filed: August 28, 2001  
Page 3

### III. CONCLUSION

In view of the remarks submitted herein, Applicants respectfully request that the claims of Group II be examined.

The Examiner is invited to call the undersigned agent or Cathryn Campbell if there are any questions regarding this application.

Respectfully submitted,

July 25, 2003  
Date

Andrea L. Gashler  
Andrea L. Gashler  
Registration No.: 41,029  
Telephone: (619) 535-9001  
Facsimile: (619) 535-8949

McDERMOTT, WILL & EMERY  
4370 La Jolla Village Drive  
7<sup>th</sup> Floor  
San Diego, California 92122